

## **TENTATIVE RULINGS for CIVIL LAW and MOTION**

### **June 14, 2007**

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. If no hearing is requested, the prevailing party must submit an order to the Court in accordance with Rule 3.1312 of the 2007 California Rules of Court. The Court does not have facilities for providing copies of the tentative rulings. However, copies will be posted at the entrance to the courtroom and on the Yolo Courts Website, at [www.yolo.courts.ca.gov](http://www.yolo.courts.ca.gov). If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Two: (530) 406-6843

#### **TENTATIVE RULING**

**Case:** Kesel v. Feuerstein  
**Case No. CV PM 03-1602**  
**Hearing Date:** June 14, 2007 Department Two 9:00 a.m.

The motion of cross-defendant Keith Kesel to set aside the default judgment entered on October 7, 2004, is **DENIED**. The motion is not timely. (Code Civ. Proc., § 473, subd. (b).)

#### **TENTATIVE RULING**

**Case:** Laddish v. Hassid  
**Case No. CV PO 06-2250**  
**Hearing Date:** June 14, 2007 Department Two 9:00 a.m.

Defendant Sutter Independent Physicians' demurrer to the complaint is **SUSTAINED WITH LEAVE TO AMEND**. The complaint does not "contain sufficient facts to apprise the defendant of the basis upon which the plaintiff is seeking relief." (*Doheny Park Terrace Homeowners Ass'n, Inc. v. Truck Ins. Exchange* (2005) 132 Cal.App.4th 1076, 1098-1099.) If plaintiff chooses to amend her complaint, she should describe in plain language what injuries she alleges defendants caused and how defendants caused them.

#### **TENTATIVE RULING**

**Case:** Godina v. Permanent General Assurance Corporation  
**Case No. CV CV 04-1154**  
**Hearing Date:** June 14, 2007 Department Two 9:00 a.m.

The defendant's motion for terminating sanctions is **GRANTED** as follows. (Code Civ. Proc., §§ 2023.030, subd. (d), 2030.290, subd. (c) and 2031.300, subd. (c).) The plaintiff Richard Godina is **ORDERED** to provide verified responses to the defendant Permanent General Assurance Corporation's form interrogatories, special interrogatories, and requests for production of documents, without objections, within seven (7) days following service of notice of this order. If the plaintiff fails to supply any one (or more) discovery response(s) ordered in this ruling, the defendant shall submit a declaration to that effect and an order of dismissal for the court's use.

The plaintiff waived the privilege against self-incrimination by failing to timely respond to the discovery requests at issue (Code Civ. Proc., §§ 2030.290, subd. (a); 2033.280, subd. (a), 2031.300, subd. (a)) and by commencing a lawsuit that placed in issue matters relating to the alleged theft of his car (*Fremont Indemnity Co. v. Superior Court* (1982) 137 Cal.App.3d 554). The plaintiff's belated blanket assertion of the privilege is inadequate.

The request for monetary sanctions against R. Robert Monterrosa is **GRANTED** in the amount of \$560.00. (Code Civ. Proc., §§ 2023.030, subd. (a), 2030.290, subd. (c) ) and 2031.300, subd. (c).) Mr. Monterrosa is **ORDERED** to pay all monetary sanctions from this order and from the March 28, 2007, order no later than June 30, 2007. Failure to do so may result in an Order to Show Cause re Contempt being issued.

#### **TENTATIVE RULING**

**Case:** **Dowdell v. Lara**  
**Case No. CV CV 06-653**  
**Hearing Date:** **June 14, 2007** **Department Two** **9:00 a.m.**

The court has considered all of the papers filed.

The motion for a protective order by Aida Elizabeth Ramirez is **GRANTED**.

#### **TENTATIVE RULING**

**Case:** **Lopez v. Halls Window Center, Inc. et al.**  
**Case No. CV CV 06-1137**  
**Hearing Date:** **June 14, 2007** **Department Two** **9:00 a.m.**

The evidentiary objections to the Declaration of Mark T. Gallagher are **OVERRULED**.

The motion to set aside the default entered against Lester Hunsucker, individually, and Lester Hunsucker d/b/a Less-Co. Roofing is **GRANTED**. (Code Civ. Proc., § 473, subd. (b).)

#### **TENTATIVE RULING**

**Case:** **Andreyyuk v. State of California**  
**Case No. CV PM 05-1584**  
**Hearing Date:** **June 14, 2007** **Department Two** **9:00 a.m.**

The evidentiary objections to Paragraph 2 of the Declaration of James Nolan and Paragraph 5 of the Declaration of Minh Nguyen are **SUSTAINED**. All other evidentiary objections are **OVERRULED**.

The defendants' motions to bifurcate the liability and damages issues and to try the liability issue first are **DENIED**. (Code Civ. Proc., §§ 598 and 1048, subd. (b).)

**TENTATIVE RULING**

**Case:**                      **Hall-Mark Services v. St. Paul Fire and Marine Insurance Co.**  
                                 **Case No. CV CV 04-707**

**Hearing Date:**        **June 14, 2007**                      **Department Two**                      **9:00 a.m.**

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The unopposed motion of defendant St. Paul Fire and Marine Insurance for leave to file a cross-complaint for declaratory relief as specified in its May 10, 2007, Amended Notice of Hearing is **GRANTED IN PART**. The unopposed request to take judicial notice of the Second Amended Complaint is **GRANTED**.

Although defendant Gen-Con is mentioned in the allegations of the proposed cross-complaint and is listed in the caption as a cross-defendant, Gen-Con is not identified in the body of the cross-complaint as a cross-defendant and no relief is sought from Gen-Con. Moreover, the May 10, 2007, amended notice of hearing omits Gen-Con as a proposed cross-defendant and also explicitly states that St. Paul is no longer seeking to name Pacific Program Management, Inc., or defendant Harris & Associates. Accordingly, the revised cross-complaint should not list any of those three parties as cross-defendants.

St. Paul Fire and marine Insurance Company shall file its revised cross-complaint within 15 days of notice of ruling and shall effect service within 30 days thereafter.